



CONSULATE GENERAL OF THE UNITED STATES

DÜSSELDORF • GERMANY

DEPOSITIONS TAKEN **AT THE AMERICAN CONSULATE GENERAL** **DÜSSELDORF, GERMANY**

CIVIL CASES ONLY: Under the provisions of our bilateral agreement(s), U.S. Consular Officers in Germany have the right to take depositions in civil cases only. Depositions related to criminal cases are accomplished via letters rogatory. Please contact the Department of State, Consular Affairs Office of Overseas Citizens Services, American Citizen Services Division (CA/OCS/ACS) at (202) 736-4978 for advice and instructions regarding use of the letters rogatory process for taking testimony in criminal cases.

PROCEDURE: To have a deposition taken before a Consular Officer at the American Consulate General in Düsseldorf, a copy of a notice of anticipated taking of testimony to the opposing attorney must be provided to the Consular Officer or, alternatively, a commission should be issued by the court, stating that the testimony of the witness(es) is to be taken before any Consul or Vice Consul of the United States in Düsseldorf, Germany. The address is:

American Consulate General
American Citizen Services Unit
Willi-Becker-Allee 10
40227 Düsseldorf
Tel: 0211-788-8927
Fax: 0211-788-8938 (within Germany)
011-49-211-788-8938 (from the United States).

The notice to schedule a deposition, along with a mandatory \$475 scheduling fee, must be received by the Consulate's American Citizen Services Unit **AT LEAST THREE WEEKS IN ADVANCE**. If non-US nationals are to be deposed, please provide the case name and related docket number; location of the U.S. court where adjudicated; name(s), address(es), nationality(ies), and telephone number(s) of the witness(es), proposed date of deposition. You may submit the request by mail or by fax to the Consulate General's American Citizen Services Unit. However, please understand that the Consulate may not initiate a request to the German government to allow the deposition without first obtaining the mandatory \$ 475 scheduling fee (information on payment attached).

IMPORTANT: Düsseldorf is a small consulate. We have one consular officer who is responsible for the daily issuance of passports and related documents, as well as disaster assistance, crisis management and emergency cases involving U.S. citizens; this caseload is heavy and unpredictable. Our first commitment must be to maintaining daily service to the general public. In light of these staffing considerations, it is often difficult for the Consulate to accommodate deposition requests. While we will attempt to schedule the deposition at your proposed time and date, we certainly cannot guarantee this.

In the past Düsseldorf has been most successful in accommodating those requests in which the consular officer is asked to perform the “swearing-in” part of a deposition and then allowed to “withdraw subject to recall”. Germany is currently reviewing interpretations of the Convention with regards to U.S. consular responsibilities. It could be that in the future the German Justice Ministry may require the consular officer to be present for the entire proceedings, or, at the very least, conduct the proceedings within the Consulate with frequent consular oversight. Should this become the case, many depositions would then need to be referred to the much larger Consulates in Frankfurt or Munich.

In order to facilitate planning of space and staffing, we ask that you provide in your initial request as much detail as possible about how many individuals will attend the deposition and how long you expect it to last. In addition, please remain flexible if the Consulate cannot honor your initial proposal and proposes its own alternate date.

Because we understand that our own limitations may cause you to withdraw your request before a firm scheduling agreement is set (e.g., if you are only available on one particular day but a consular officer is definitely not available on that day, so you choose instead to have a witness fly to the USA), we delay depositing the initial \$475 scheduling fee until agreement is reached between you and the Consulate on a mutually-acceptable date/time (N.B.: we do not take into consideration any independent arrangements you must make with court reporters, etc.). Thus, if it is clear to us from the circumstances that you are deciding to withdraw your exploratory request because the Consulate itself is clearly unable to provide the space/officer you require despite our best efforts, we feel we should return your uncashed check to you.

On the other hand, whenever a mutually agreed upon time/place/date is set, we will deposit the non-refundable fee and initiate a telegraphic request for deposition approval to the German government. At this point,

the fee is indeed non-refundable. In addition, please note that by regulation you will be required to pay a new non-refundable \$475 scheduling fee each time a rescheduling is made at the request of any party other than the Consulate (this would include any scheduling conflicts which arise with stenographers, interpreters, court reporters, etc.). Also, if at any point after the firm scheduling agreement you decide to cancel the deposition, the scheduling fee cannot be refunded.

A Consular Officer will administer the oath to the witness(es), and, if required, to a stenographer and to an interpreter on the morning of the deposition. In accordance with the Code of Federal Regulations, Title 22, a consular fee of \$30 per oath will be charged. The fee is payable in cash (Euro or dollars) to the consulate cashier on the day of the deposition immediately before the administration of the oath(s).
NOTE: EACH INDIVIDUAL TAKING AN OATH MUST PRESENT PROPER IDENTIFICATION, I.E. A VALID PASSPORT OR IDENTITY CARD WITH PHOTOGRAPH.

A fee of \$265.00 / hour (divisible into ¼ hour increments) above and beyond the initial scheduling fee will be charged for consular officer attendance at the deposition. This fee is payable upon completion of the deposition.

SERVICE OF RECORDERS AND INTERPRETERS: Parties arranging the deposition are responsible for locating their own court recorders and interpreters.